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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/317,381	05/24/1999	HAMESH CHAWLA	CIS99-1267	9031
7590 05/18/2004				
BARRY W CHAPIN ESQ CHAPIN & HUANG LLC WESTBOROUGH OFFICE PARK 1700 WEST PARK DRIVE WESTBOROUGH, MA 01581		EXAMINER TRAN, THIEN D		
		ART UNIT PAPER NUMBER		
		2665 15		
DATE MAILED: 05/18/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/317,381

Applicant(s)

CHAWLA ET AL.

Examiner

Thien D Tran

Art Unit

2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 34-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 56 is/are allowed.
- 6) ☒ Claim(s) 1,40,54 and 55 is/are rejected.
- 7) ☒ Claim(s) 2-8, 34-39, 41-53 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 40, 54, 55, are rejected under 35 U.S.C. 102(e) as being anticipated by Elwalid et al (U.S Patent No 6,353,616 B1).

Regarding claims 1, 54 Elwalid discloses a method for dynamically adjusting reserved bandwidth in a data communications device while transporting a session of data communication within the device, the method comprising the steps of:

establishing a first bandwidth reservation associated with a session of data a communication in the data communications device (col.7 lines 55-65);

transporting, through the data communication device, data (application data) associated with the session of data communication utilizing data storage locations associated with the first bandwidth reservation (col.7 lines 9-25);

receiving bandwidth allocation updated messages such as PATH message or RSVP requested message (adjustment information) during the session of data communication, within the bandwidth reservation request (figure 4, col.1 lines 35-60, col.10 lines 60-65); and

dynamically adjusting the first bandwidth reservation to produce a second bandwidth reservation for the session of application data communication in accordance with the bandwidth allocation adjustment information within the bandwidth reservation request while continually maintaining the session of data communication (figure 5, col.11 lines 15-30).

Regarding claims 40, 55 Elwalid discloses a method of data communications device capable of dynamically adjusting reserved bandwidth while maintaining a session of data communication, the device comprising:

an input for receiving application data including bandwidth reservation requests;  
a data storage mechanism including data storage locations; a bandwidth reservation processor coupled to the input port and accepting a first bandwidth reservation request indicating a first amount of bandwidth to reserve for the session of data communication in the data communications device, the bandwidth reservation processor establishing a first bandwidth reservation associated with a session of data communication in the data storage locations (col.11 lines 10-20); and

a data scheduler coupled to the input port and coupled to the data: storage mechanism, the data scheduler receiving application data associated with the session of data communication and depositing the application data associated with the session of data communication into the data storage locations associated with the first bandwidth reservation. See figure 2, col.4 line 45 to col.5 lines 45.

***Allowable Subject Matter***

3. Claims 2-8, 34-39, 41-53 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Claim 56 is allowed.

***Response to Arguments***

5. Applicant's arguments filed 03/04/2004 have been fully considered but they are not persuasive.

Applicant argues that Elwalid does not disclose an establishment of connection for application data based on the bandwidth reservation. However, Examiner respectfully disagrees with the argument because Elwalid discloses the reservation message used to reserve bandwidth for audio, video data or so on (application data) of a connection set up, col.11 lines 45-50, col.1 lines 38-42.

Applicant argues that Elwalid does not disclose a bandwidth allocation adjustment within a second bandwidth reservation request. However, Examiner respectfully disagrees with the argument because Elwalid discloses an adjustment for bandwidth based on the PATH and RSVP messages (second bandwidth reservation request) during an established connection (reserve bandwidth while continually maintaining the application data session), col.1 line 40, col.4 lines 33-40.

Note\* the connection setup for a flow of voice and video data (col.11 lines 45-50) is the flow of application data. PATH, RSVP and UPDATE messages are just control messages used to control the flow of voice and video data.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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7. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Thien Tran whose telephone number is (703) 308-4388. The examiner can normally be reached on Monday-Friday from 8:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu, can be reached on (703) 308-6602. Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Thien Tran



STEVEN NGUYEN  
PRIMARY EXAMINER